

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

DESMOND EASLEY,
Plaintiff,

v.

Case No. 06C0713

GRAND HAVEN APARTMENTS,
GREGORY RISE,
ROBERT SCHMIDT, JR., and
DANE PANGALLO,
Defendants.

ORDER

Plaintiff Desmond Easley, proceeding pro se, filed this case on June 23, 2006 and amended his complaint on July 18, 2006. His amended complaint listed the same address for all defendants. On July 21, 2006, I granted plaintiff's request to proceed in forma pauperis and ordered the U.S. Marshals Service to serve defendants with the complaint. Though defendants Grand Haven Apartments and Robert Schmidt, Jr., returned waivers of service, summonses directed toward defendants Gregory Rise and Dane Pangallo were returned unexecuted, each noting that the subject of the summons was no longer employed at the address given.

A plaintiff generally has 120 days from filing within which to effect service of the complaint upon the defendants. Fed. R. Civ. P. 4(m); Civil L.R. 41.1. However, since the plaintiff was relying on the U.S. Marshals Service to effectuate service, the 120-day period was tolled until the date on which in forma pauperis status was granted. See Paulk v. Department of Air Force, 830 F.2d 79 (7th Cir. 1987). Thus, the 120-period began on July

21, 2006, and expired on November 18, 2006. In an order filed on November 21, 2006, I notified plaintiff that defendants Rise and Pangello had not yet been served and granted plaintiff an additional 20 days to notify the clerk of court of an address (or addresses) at which the U.S. Marshals Service could effectuate service on such defendants. I warned plaintiff that if he failed to do so, defendants Rise and Pangello would be dismissed from this action.

To date, no proof of service has been filed and plaintiff has not notified the clerk of court of an address at which either Rise or Pangello can be served. Federal Rule of Civil Procedure 4(m) and Civil L.R. 41.1 thus allow me to dismiss such defendants from this action.

Therefore,

IT IS ORDERED that defendants Gregory Rise and Dane Pangello are **DISMISSED** from this action.

Dated at Milwaukee, Wisconsin, this 31 day of January, 2007.

/s _____
LYNN ADELMAN
District Judge